IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 143 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRAKASH INDUSTRIES LIMITED AND ANOTHER

Versus

GUJARAT INDUSTRIAL DEVELOPMENTCORPORATION AND ANOTHER

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Appearance :
NANAVATI ASSOCIATES for Petitioner(s) : 1 - 2.
MR GIRISH D BHATT for Respondent(s) : 1 - 2.
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 24/07/2006

ORAL JUDGMENT

1. The petitioner being aggrieved of orders dated 03.02.1998, 22.06.1998 passed by the respondents and order dated 10.12.2004 passed by the learned Assistant Judge, Bharuch in Regular Civil Appeal No.74 of 2001 is

before this Court. The matter is admitted by order dated 08.07.2005.

2. At the joint request of the learned advocates, the matter is taken up for final disposal.

The main challenge in the petition is that order passed by the learned Assistant Judge, Bharuch in Regular Civil Appeal No.74 of 2001 is without taking into consideration the written submissions filed by both the parties.

3. Learned advocate for the petitioner submitted that to that extent, the order is vitiated on account of non-application of mind.

4. Mr.G.D.Bhatt, learned advocate appearing for respondent No.1 could not dislodge this submission.

5. Taking into consideration the fact that the written submissions were filed by both the parties, it would have been in the interest of justice and would have served the ends of justice if the submissions of both the parties were reflected in the order.

Without going into the merits of the matter, only on this short ground, the petition is allowed. Judgment and order dated 10.12.2004 passed by the learned Assistant Judge, Bharuch in Regular Civil Appeal No.74 of 2001 is quashed and set aside. The matter is remanded to the

learned Assistant Judge, Bharuch to decide the matter afresh after taking into consideration the written submissions filed by both the parties. Rule is made absolute with no order as to costs.

Taking into consideration that the matter is old enough, the matter be decided as expeditiously as possible, but not later than 31.10.2006. Status quo granted by this Court which has continued till date, shall continue to operate for 15 days after the appeal is decided, i.e. to say up to 15.11.2006. It is clarified that status quo is to be maintained by both the parties.

(RAVI R.TRIPATHI, J.)

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